REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

The office action of February 20, 2008 acted upon claims 1-20. Claims 1-20 were rejected under 35 USC, section 102(b). Claims 1 and 19 have been amended, without prejudice. By this response, claims 1-20 are again presented in the belief that they recite allowable subject matter.

§ 102(b) Rejections

The Examiner has rejected claims 1-20 under § 102(b) as being anticipated by U.S. Patent No. 5862223 to Walker et al. (henceforth, "Walker"). The Examiner's rejections are respectfully traversed.

Interview Summary

In a telephonic interview conducted between Emanuel Cohen and Examiner Nguyen on 2 June, 2008, a number of issues were touched upon, including some of the differences between the teachings of Walker and those of the present invention, as recited by claim 1. Applicant explained the invention is related to a method of selecting a best employee from existing employees based on performance profile. Applicant argued that Walker did not disclose the performance profile of the employee as in the instant application. The Examiner undertook to consider these arguments within the framework of a formal response to the Office Action.

Referring back to the instant Office Action, the Examiner had maintained that Walker reads on claims 1, 10-11, and 19. According to the Examiner, Walker discloses a method for selecting at least one suitable candidate for a work position using performance data from each worker in a pool of existing workers, comprising:

"inputting into a computer-implemented processing stage, for each worker in the pool of existing workers" -- corresponds to the step of storing information into the appropriate database [in Walker], including:

"a Personal Profile relating to a set of Personal Parameters" -- corresponds to information in "expert qualifications database 285" in Walker;

"a Performance Profile" -- corresponds to information in "expert qualifications database 255" in Walker;

"processing said Personal Profile and said Performance Profile of each of the … rule" -- corresponds to the step of searching for expert based on expert profile and qualification, and using different search technique;

"obtaining, for at least one candidate, a Personal Profile" corresponds to Walker's disclosure at column 25, lines 21-44;

"analyzing said Personal Profile from said at least one candidate, along … said candidate" corresponds to Walker's disclosure at column 25, lines 53-55.

The Examiner's rejections are respectfully traversed. The instant Specification clearly teaches:

a computerized method, for producing a set of candidate rules for analyzing one or more candidates using optimization techniques. The method defines the relationship between

(a)   the abilities and characteristics ("personal parameters") of current employees, and

(b)   the success (performance level) of these current employees in the organization.

This set of rules has a characteristically-high validity level, because it relates complex relationships between personal parameters and job performance (success) to be determined mathematically. Many of these relationships are not intuitive, or even counter-intuitive. Indeed, a particular personal parameter, in and of itself, may not be advantageous or disadvantageous. Only when couple with one or more other personal parameters does the relationship between the particular personal parameter and job performance become evident.
[pages 9-10]

By sharp contrast, Walker teaches an expert matching method and apparatus for managing communications between an expert having particular qualifications and an end user seeking a solution to an expert request. In a preferred embodiment, Walker discloses an apparatus having a database for storing expert qualifications. In response to an expert request, a search program identifies experts qualified to respond to the expert request. The expert request is then transmitted to the expert, which results in an expert answer transmitted to and received by the central controller.

Walker further discloses that

Expert database 255 maintains data on the experts, including name, address, private key information, email addresses, physical addresses, payment preferences, rates, availability standards, voice mail addresses, expert profile 155, biographies, past expert answers 130, and respective subject areas of expertise. Expert profile 155 includes automatic bid amounts, minimum completion times, acceptable price ranges, and the like. Expert database 255 includes rating information generated by end users, as well as expert address 145, which is used to direct communications to the expert. Expert address 145 comprises a phone number, web page URL, bulletin board address, pager number, telephone number, email address, voice mail address, facsimile number, or any other way to contact the expert. Expert database 255 also stores all bid requests 160 and bid offers 165 generated by the expert. Advertising data generated by the expert may also be stored in this database.

End user database 260 maintains data on end users, such as name, address, phone number, ID number, email address, payment preferences, past system usage, private key information, etc. It also contains end user profile 150, which stores preferences for required response time, acceptable qualification levels, acceptable price levels, automatic bid amounts, and

the like. It also contains copies of each bid request 160 and bid offer 165 generated by the end user. [column 14]

Thus, Walker discloses a system that attempts to match an expert (or more generally, a candidate) with a particular demand for an expert. Walker fails to teach, nor fairly suggests, the relevance of the characteristics and the performance of existing workers in evaluating candidates.

In addition, Applicant notes that the expert database taught by Walker is a means of differentiating between experts, based on academic training, experience, price, availability, location, etc. The controller uses the data in the database to best match a particular task or demand to the singular characteristics of a particular expert. Moreover, each demand or task ("end user request") is treated as a special case to be matched up with the characteristics of a particular expert.

By sharp contrast, the present invention relates primarily to an almost diametrically opposite employment sector. As taught on page 11 of the instant Specification:

> By way of example, a large employing organization has 100 identical positions filled by employees (e.g., bank tellers). The company seeks to hire an additional four candidates to fill four new (identical) positions."

> In Step 1, the group of 100 existing employees (E_1 to E_n), or more typically, a statistically-significant sample thereof, undergoes a Personal Test, in which various Personal Parameters are tested or recorded. Preferably, the Personal Test should include as many Personal Parameters as possible, particularly those that are known to influence Dimensions of Performance.

> The result of Step 1 is a Personal Profile for each existing employee in the sample....

> In Step 2, the same group (or sample) of existing employees E_1 to E_n, undergoes an Employer's Evaluation ("EVAL"), for one or more Dimensions of Performance ("DIMP"). The EVAL should reflect as accurately as possible, the success of the employee in each specific Dimension of Performance.

The result of Step 2 is a list of EVALs for each tested employee....

In Step 3, a computerized optimization program processes the data input from Steps 1 and 2, and searches for a strong positive correlation between each Personal Parameter in the Personal Profile and the EVAL for each DIMP for each of the employees (in the sample). The result of Step 3 is a Set of Candidate Rules for the particular job in question....

Thus, prior to evaluating candidates, the assessment method of the present invention has produced a Set of Candidate Rules that is specific for the job at hand, and a Computed Performance Rating for each of the employees in the sample.

In Step 5, new candidates undergo a Personal Test, which may be identical to the Personal Test of the employees in the sample. However, after formulating the job-specific Set of Candidate Rules, it is almost always possible to reduce the Personal Test so as to cover those Personal Parameters that are needed for the Set of Candidate Rules. The result of Step 5 is a Personal Profile for one or more candidates.

Subsequently, these Personal Profiles, along with the job-specific Set of Candidate Rules are subjected to computerized processing and analysis (Step 6). Each candidate receives a Computed Performance Rating, which is the job-specific rating given to the particular candidate, with respect to that specific job within the organization.

Moreover, by comparing the Computed Performance Rating of a particular candidate with the Computed Performance Ratings of (existing) employees in the sample (Step 7), the organization can identify the employee(s) to whom the candidate's job performance will be most similar.

These two pieces of information, i.e.:

(1)   the job-specific rating given to a particular candidate, with respect to that specific job within the organization, and

(2)   identification of the employee to whom the candidate's job performance will be most similar,

dramatically improve the abilities of the employers to identify the optimal candidates for their own organization and for a particular job, and resolve many prevalent problems regarding mistaken assessment of candidates.
[pp. 11-15]

Referring now to instant claim 1, claim 1 recites various limitations that appear

to make the invention, as recited, patentably distinct from Walker and the other cited

prior art. Claim 1 recites:

(a)   inputting into a computer-implemented processing stage, for each worker in the pool of existing workers:

    (i)   a Personal Profile relating to a set of Personal Parameters, and

    (ii)   a Performance Profile,

(b)   processing said Personal Profile and said Performance Profile of each of the existing workers, so as to produce a Set of Candidate Rules, wherein at least one candidate rule of said Set of Candidate Rules is a non-linear rule;

(c)   obtaining, for at least one candidate, a Personal Profile, and

(d)   analyzing said Personal Profile from said at least one candidate, along with said Set of Candidate Rules, to produce a Computed Performance Rating for said candidate.

Walker merely **screens** or **filters** the candidates based on the end user request. Walker does not teach, nor fairly suggest, producing a Set of Candidate Rules by "processing said Personal Profile and said Performance Profile of each of the existing workers". The rules or preferences taught by Walker relate to "characteristics of end user requests **120** sent to the expert" [column 21, lines 1-3], and do not refer to Candidate Rules generated by processing the Personal Profile and said Performance Profile of each of the existing workers.

A fortiori, Walker does not teach, nor fairly suggest, producing a Set of Candidate Rules by "processing said Personal Profile and said Performance Profile of each of the existing workers, so as to produce a Set of Candidate Rules, *wherein at least one candidate rule of said Set of Candidate Rules is a non-linear rule.* As developed in the instant Specification [page 17], non-linear rules may be far from obvious to both the employer and even to employment experts:

The inventor has found that the predictive validity of the 'linear approach' is low. Human beings have proven to be a repository of intricate traits of varying levels -- including some that are not openly perceived.

The method of the present invention takes a 'non-linear approach', by finding the Set of Candidate Rules that creates the best mathematical correlation between the existing employees, and the level of success in the organization of those employees. This approach requires a complex, computerized modeling program for producing such a correlation from a huge number of combinations. Some of the correlations are not intuitively obvious, to the employer and to experts alike.

Thus, Applicant respectfully submits that original claims 1 and 19 recite limitations that make the claims patentably distinct over the teachings of Walker. Moreover, upon close review of the instant Office Action, Applicant further submits that the Examiner failed to demonstrate that Walker teaches at least one candidate rule that *"is a non-linear rule"*, as recited by original claim 1.

Regarding claims 2 and 20, the Examiner maintained that "said Performance Profile is a Position-Specific Performance Profile" corresponds to Walker's "respective subject areas of expertise".   Essentially as argued above, the rules or preferences taught by Walker relate to "characteristics of end user requests **120** sent to the expert" [column 21, lines 1-3], and do not refer to Candidate Rules generated by processing the Personal Profile and said Performance Profile of each of the existing workers.

Hence, *a fortiori*, Walker does not teach, nor fairly suggest, producing a Set of Candidate Rules by processing a ***Position-Specific*** Personal Profile and a Performance Profile of each of the existing workers, so as to produce a Set of Candidate Rules.

Moreover, Walker's experts are candidates who do not necessarily hold any position, and thus cannot have any ***Position-Specific*** Personal Profile. By sharp contrast, in the instant invention, the Performance Profiles and Personal Profiles of

100 bank tellers (by way of the example from page 11 of the Specification) are processed to produce a Set of Candidate Rules that correlate Person Profile to Performance.

Thus, Applicant respectfully submits that original claims 2 and 20 recite limitations that make the claims patentably distinct over the teachings of Walker. Similarly, various other dependent claims recite limitations that make the claims patentably distinct over the teachings of Walker.

Applicant believes that original claims 1-20 recite allowable subject matter. However, while continuing to traverse the Examiner's rejections, the Applicant has, in order to expedite the prosecution, chosen to amend independent claims 1 and 19 in order to clarify and emphasize the crucial distinctions between the device of the present invention and the device of Walker. Specifically, claims 1 and 19 have been amended to clarify that the Set of Candidate Rules correlates Performance Profiles to Personal Profiles, a feature that is not taught, nor fairly suggested by the cited prior art.

Additional Prior Art References

The Examiner has made of record the following patent documents that were not relied upon, but considers pertinent to the instant disclosure:
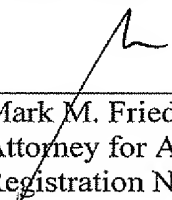
Zhai   (US 6430559)
Puram et al.   (US 6289340)

The above-referenced patent documents have been reviewed carefully. Applicants believe that they do not render the claimed invention unpatentable. In at

least some instances, these documents tend to indicate the non-obviousness of the invention.

In view of the above amendments and remarks it is respectfully submitted that claims 1-20 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

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